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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/784,525

02/23/2004

Kenyon A. Hapke

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12/21/2006

BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ, S.C.

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SUITE 1030

MILWAUKEE, WI 53202

EXAMINER

RIGGLEMAN, JASON PAUL

ART UNIT

PAPER NUMBER

1746

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/21/2006

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/784,525

Applicant(s)

HAPKE, KENYON A.

Examiner

Jason P. Riggelman

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/23/2004, 9/7/2005</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 9/07/2005 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because an English abstract has not been provided for all foreign references. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Drawings

2. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the

description: "13" – Fig. 12, "3" – Fig. 1, and "162" – Fig. 20. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 11 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear in what force is being measured and what structure is required to respond to said force.

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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7. Claims 10-11, 17-18, and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The detailed description of the specification does not elaborate on the structure of the force sensor.

8. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term "force sensor" in claims 10-11, 17-18, and 22 are used by the claims to mean "a sensor detecting force", while the accepted meaning is "a plunger." The term is indefinite because the specification does not clearly redefine the term.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-4, 6, 8, 10-13, 15, and 17-23 are rejected under 35 U.S.C. 102(b) as being unpatentable by Archambault (US Patent No. 4951693).

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11. Archambault teaches a dishwashing machine which has a solenoid-operated latch that releasably locks the door in a closed position. The latch is operated by a timer-controlled switching assembly of the machine, so as to release the door at the end of the rinsing cycle. The drying cycle is effected through circulation of ambient air within the washing compartment through the partially-open door. The door pivots between a close position (drying position), visually covering the washing chamber, and seal position (washing position), in addition to an open position (loading position). Alternatively, the door pivots between a vent position (partially-open drying position) and close position (washing position), in addition to an open position (loading position). The latch has a solenoid-operated plunger mounted in the top portion of the door (Column 2, Lines 31-39). The dishwasher comprises a washing chamber 12, having a door 28 movable between an open position and a closed position, Figs. 1-2. An electronic actuating mechanism (push-buttons) is mounted in the door to a timer-controlled switching mechanism. The latch includes an electric solenoid 82, that moves the door between the washing position and the drying position, having a plunger 86. The latch (plunger 86 assembly) releasably retracts and engages behind the head to lock the door in a washing position, Fig. 5 (Column 4, Lines 22-35). The engagement of the head effectively acts as a force limiter limiting a force of closure of the door between the close position and the seal position. The door is releasably held in the drying position by a detent (head 60) of the plungers which abut against the step 62 (Column 3, Lines 55-61). The dishwasher has a sensor (plunger 86) sensing an opening force on the door to cause the electric actuator to move the door from the seal position toward the open

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position. The dishwasher has a force sensor (plunger 86) sensing a force resisting closure of the door to cause the electric actuator to move the door from the seal position toward the open position. The dishwasher has a user control which is a force sensor (plunger 86) sensing an opening force applied to the door and communicating with the electric actuator to cause an opening of the door.

12. The door may be opened at any time during the washing and rinsing cycles by a manually-operated operator (lever) 88 (Column 4, Lines 47-53). The top section of the door has a timer which controls the washing/drying operation cycles of the washing machine by sequentially signaling the closing to different circuits to the water pump, the electrovalves, the electric heating element, and other parts involved in the washing, rinsing, and drying cycles of the machine (Column 4, Lines 7-15).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 5, 14, and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Archambault (US Patent No. 4951693), as applied to claims 1,3, 13, and 20-21, and further in view of Burnett (US Patent No. 6295004).

15. Archambault does not teach a switch which signals that the latching portions have released the door of the dishwasher nor a door closed sensor; however, Burnett teaches a dishwasher 10 which has a front door 12 which has a switch signaling (LED

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emitting device) which indicates that the door 12 is beginning to open (Column 4, Lines 30). The LED 22 emitting device helps prevent injury to the shin or lower leg by the user walking into the open dishwasher (Column 2, Lines 0-43). If the door 12 is closed then there is no LED 22 signal; therefore, the dishwasher has a means to sense and indicate the door is closed. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Archambault with Burnett to create a dishwashing machine which can signal that the latch portions and latch and tub portions have been released and the door is in an open state and could cause injury to the shins and lower leg of the user.

16. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Archambault (US Patent No. 4951693), as applied to claims 1 and 12, and further in view of Ellingson et al. (US Patent No. 4510777).

17. Archambault does not teach a sensor sensing the door in the close position to allow the electric actuator to move the door from the close position to the seal position; however, Ellingson et al. teaches a washing machine in which a microcontroller is programmed to allow an electric solenoid to actuate the door latch lever to lock the door in a seal position once it has been sensed in closed position (Column 7, lines 27-44) and claim 1 of Ellingson et al. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Archambault with Ellingson et al. to create a dishwashing machine which is has an automatically locking door.

18. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Archambault (US Patent No. 4951693), as applied to claim 1.

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19. Archambault does not teach the electric actuator is mounted on the washing chamber and releasably engaging the door; however, it has been held that reversal of parts would have been obvious (*In re Gazda* 104 USPQ 400). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Archambault to create a dishwashing machine in which the electric actuator is mounted on the washing chamber (as opposed to the door) and releasably engages the structure of the door (as opposed to the structure of the washing chamber).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Riggleman whose telephone number is 571-272-5935. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JPR

Jason P Riggleman
Examiner
Art Unit 1746


MICHAEL BARR
SUPERVISORY PATENT EXAMINER